

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|--|---|--------------------|
| KIM FRACHEY, NANCY MALONEY, |) | |
| SOCORRO NIETO, CHAD FLOLO, |) | |
| NATALIE FLOLO, CHARLES |) | |
| AMANING, and FOX VALLEY |) | |
| FAMILIES AGAINST PLANNED |) | |
| PARENTHOOD, an Unincorporated |) | |
| Association, |) | Case No. 08 C 1148 |
| |) | |
| Plaintiffs, |) | Judge Norgle |
| |) | |
| v. |) | Jury Demanded |
| |) | |
| PLANNED PARENTHOOD/CHICAGO |) | |
| AREA, an Illinois Not-for-Profit |) | |
| Corporation, STEVEN TROMBLEY, |) | |
| GEMINI OFFICE DEVELOPMENT, LLC, |) | |
| An Illinois Limited Liability Corporation, |) | |
| 21ST CENTURY OFFICE |) | |
| DEVELOPMENT, LLC, an Illinois Limited |) | |
| Liability Corporation, CITY OF AURORA, |) | |
| A Home-Rule Municipal Corporation, |) | |
| ZONING BOARD OF APPEALS FOR |) | |
| THE CITY OF AURORA, ED SIEBEN, |) | |
| THOMAS WEISNER, |) | |
| HERMAN BENEKE, |) | |
| PLANNING & DEVELOPMENT |) | |
| COMMITTEE OF THE CITY OF |) | |
| AURORA, PLANNING COMMISSION |) | |
| OF THE CITY OF AURORA, and |) | |
| BUILDING CODE BOARD OF APPEALS |) | |
| OF AURORA, |) | |
| |) | |
| Defendants. |) | |

PLAINTIFFS' MOTION FOR A SHORT EXTENSION
OF TIME TO FILE ITS RESPONSE TO THE CITY OF
AURORA'S MOTION TO DISMISS

Plaintiffs, by their undersigned counsel, hereby move that the Court grant them a short extension of time until next Wednesday, April 16, 2008, to file their response to the

motion to dismiss filed by the defendant, City of Aurora. Counsel only lately have encountered some complicated new case law, not cited by the City in its motion, that they reasonably need more time to unravel in order to address the matters at bar adequately. They respectfully submit that this is a zoning case in which their clients' rights have been denied in violation of their federal and state constitutional rights, as well as under Illinois statutes. It ought to be heard in state court, namely, the Circuit Court for the Eighteenth Judicial Circuit – precisely where plaintiffs filed it. But there are federal issues which the case presents too, in the event that the state statutory rights are adjudicated in a manner that fails to comport with minimal federal constitutional requisites.

Thus plaintiffs intend to move that this Court stay further proceedings with respect to those federal issues, or in the alternative plaintiffs would move to dismiss them voluntarily, without prejudice to their being raised at a later time in the event that state remedies proved inadequate or otherwise fell short of federal constitutional standards. In that event, with potentially unripe federal claims put to one side, the balance of the case should be remanded for adjudication of state law issues by the Illinois state courts.

Plaintiffs need several days' additional time in which to frame their legal papers properly and adequately in accordance with the foregoing.

WHEREFORE, plaintiffs respectfully pray that the Court permit their filing responsive papers on or before Wednesday, April 16, 2008, and that they have all other relief to which they may be entitled on the premises in accordance with law.

/s/ Thomas Brejcha

/s/ Peter Breen

Of Counsel:
Thomas Brejcha
Peter Breen

Thomas More Society,
A public interest law firm
29 So. LaSalle St., Suite 440,
Chicago, Illinois 60603
Tel. 312-782-1680
Fax 312-782-1887